

103^D CONGRESS
2^D SESSION

S. 2146

To amend the Internal Revenue Code of 1986 to provide a special valuation of sensitive environmental areas for estate tax purposes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 24 (legislative day, MAY 16), 1994

Mr. JEFFORDS introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a special valuation of sensitive environmental areas for estate tax purposes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wetlands and Green
5 Space Preservation Assistance Act of 1993”.

6 **SEC. 2. SPECIAL VALUATION FOR SENSITIVE ENVIRON-**
7 **MENTAL AREAS.**

8 (a) IN GENERAL.—Part III of subchapter A of chap-
9 ter 11 of the Internal Revenue Code of 1986 (relating to

1 gross estate) is amended by adding immediately after sec-
 2 tion 2032A the following new section:

3 **“SEC. 2032B. VALUATION OF SENSITIVE ENVIRONMENTAL**
 4 **AREAS.**

5 “(a) VALUE BASED ON ENVIRONMENTAL USE.—If—

6 “(1) the decedent was (at the time of his death)
 7 a citizen or resident of the United States, and

8 “(2) the executor elects the application of this
 9 section,

10 then, for purposes of this chapter, the value of any interest
 11 in any sensitive environmental area in the gross estate of
 12 the decedent shall be its environmental use value.

13 “(b) DEFINITIONS; SPECIAL RULES.—For purposes
 14 of this section—

15 “(1) IN GENERAL.—The term ‘sensitive envi-
 16 ronmental area’ means—

17 “(A) any wetlands area (as defined by sec-
 18 tion 3(5) of the Emergency Wetlands Revenues
 19 Act of 1986 (16 U.S.C. 3902(5)), or

20 “(B) any other area of undeveloped natu-
 21 ral condition or open space.

22 “(2) ENVIRONMENTAL USE VALUE.—The term
 23 ‘environmental use value’ means the value of the in-
 24 terest in a sensitive environmental area, subject to
 25 an environmental preservation easement.

1 “(3) ENVIRONMENTAL PRESERVATION EASE-
2 MENT.—

3 “(A) IN GENERAL.—The term ‘environ-
4 mental preservation easement’ means, with re-
5 spect to any sensitive environmental area in-
6 cluded in the gross estate of the decedent, a
7 preservation easement granted for a period of
8 10 years beginning on the date of death of the
9 decedent.

10 “(B) GRANTOR.—Any environmental pres-
11 ervation easement may be granted by—

12 “(i) the decedent (including by life-
13 time transfer), or

14 “(ii) the executor with the consent of
15 the qualified heirs of the decedent.

16 “(C) CHARITABLE DEDUCTION LIMITA-
17 TION.—No deduction shall be allowed under
18 sections 170 or 2055 for a grant of an environ-
19 mental preservation easement under subpara-
20 graph (B)(ii) of this paragraph.

21 “(4) QUALIFIED HEIR.—The term ‘qualified
22 heir’ means, with respect to any interest in any sen-
23 sitive environmental area—

24 “(A) the estate of the decedent, or

1 “(B) any person who acquires such inter-
2 est (or to whom such interest passes) from the
3 decedent.

4 “(c) RECAPTURE OF TAX ON FAILURE TO MAINTAIN
5 EASEMENT.—

6 “(1) IMPOSITION OF ADDITIONAL ESTATE
7 TAX.—If, after the death of the decedent, a qualified
8 heir of the decedent fails to maintain an environ-
9 mental preservation easement in a sensitive environ-
10 mental area, then there is hereby imposed an addi-
11 tional estate tax.

12 “(2) AMOUNT OF ADDITIONAL TAX.—

13 “(A) IN GENERAL.—The amount of the
14 additional tax imposed by paragraph (1) with
15 respect to any interest in any sensitive environ-
16 mental area shall be the amount equal to the
17 greater of—

18 “(i) the adjusted tax difference attrib-
19 utable to such interest, or

20 “(ii) the excess of the amount realized
21 with respect to the interest (or, in any case
22 other than a sale or exchange at arm’s
23 length, the fair market value of the inter-
24 est) over the environmental use value of
25 the interest.

1 “(B) ADJUSTED TAX DIFFERENCE ATTRIB-
2 UTABLE TO INTEREST.—For purposes of sub-
3 paragraph (A), the adjusted tax difference at-
4 tributable to an interest is the amount which
5 bears the same ratio to the adjusted tax dif-
6 ference with respect to the estate (determined
7 under subparagraph (C)) as—

8 “(i) the excess of the value of such in-
9 terest for purposes of this chapter (deter-
10 mined without regard to its environmental
11 use value) over the environmental use
12 value of such interest, bears to

13 “(ii) a similar excess determined for
14 all sensitive environmental areas in such
15 estate.

16 “(C) ADJUSTED TAX DIFFERENCE WITH
17 RESPECT TO THE ESTATE.—For purposes of
18 subparagraph (B), the term ‘adjusted tax dif-
19 ference with respect to the estate’ means the
20 excess of what would have been the estate tax
21 liability, but for subsection (a), over the estate
22 tax liability. For purposes of this subparagraph,
23 the term ‘estate tax liability’ means the tax im-
24 posed by section 2001 reduced by the credits al-
25 lowable against such tax.

1 “(3) DUE DATE.—The additional tax imposed
2 by this subsection shall become due and payable on
3 the day which is 6 months after the date of the fail-
4 ure referred to in paragraph (1).

5 “(4) LIABILITY FOR TAX: FURNISHING OF
6 BOND.—The qualified heir receiving an interest for
7 which an election under subsection (a) has been
8 made shall be personally liable for the additional tax
9 imposed by this subsection with respect to his inter-
10 est unless such heir has furnished bond which meets
11 the requirements of paragraph (5).

12 “(5) BOND IN LIEU OF PERSONAL LIABILITY.—
13 If a qualified heir makes written application to the
14 Secretary for determination of the maximum amount
15 of the additional tax which may be imposed by this
16 subsection with respect to such heir’s interest, the
17 Secretary (as soon as possible, and in any event
18 within 1 year after the making of such application)
19 shall notify such heir of such maximum amount. The
20 qualified heir, on furnishing a bond in such amount
21 and for such period as may be required, shall be dis-
22 charged from personal liability for any additional tax
23 imposed by this subsection and shall be entitled to
24 a receipt or writing showing such discharge.

1 “(d) ELECTION.—The election under this section
2 shall be made not later than the time prescribed by section
3 607(a) for filing the return of tax imposed by section 2001
4 (including extension thereof), and shall be made in such
5 manner as the Secretary shall by regulations prescribe.
6 Such election once made shall be irrevocable.

7 “(e) STATUTE OF LIMITATIONS.—If there is a failure
8 to maintain an environmental preservation easement in a
9 sensitive environmental area as described in subsection
10 (c), then—

11 “(1) the statutory period for the assessment of
12 any additional tax under subsection (c) attributable
13 to such failure shall not expire before the expiration
14 of 3 years from the date the Secretary is notified (in
15 such manner as the Secretary may by regulations
16 prescribe) of such failure, and

17 “(2) such additional tax may be assessed before
18 the expiration of such 3-year period notwithstanding
19 the provisions of any other law or rule of law which
20 would otherwise prevent such assessment.”

21 (b) CONFORMING AMENDMENTS.—

22 (1) Subsection (l) of section 170 of such Code
23 (relating to disallowance of charitable deductions in
24 certain cases) is amended by adding at the end
25 thereof the following new paragraph:

1 “For disallowance of deductions for certain con-
2 tributions of environmental preservation easements,
3 see section 2032B(b)(3)(C).”

4 (2) Paragraph (3) of section 1014(a) of such
5 Code (relating to basis of property acquired from a
6 decedent) is amended by inserting “or section
7 2032B” after “section 2032A”.

8 (3) Subsection (c) of section 1016 of such Code
9 (relating to increase in basis of property on which
10 additional estate tax is imposed) is amended—

11 (A) by inserting “or section 2032B(c)(1)”
12 after “section 2032A(c)(1)” each place it ap-
13 pears in paragraphs (1), (3), and (5)(B),

14 (B) by inserting “or section 2032B” after
15 “2032A” in paragraph (1)(A),

16 (C) by striking “section 2032A(a)” in
17 paragraph (1)(B) and inserting “subsection (a)
18 of the section under which such additional es-
19 tate tax is imposed”.

20 (4) Section 1040 of such Code (relating to
21 transfer of certain farm, etc., real property) is
22 amended—

23 (A) by inserting “or section 2032B(b)(4)”
24 after “section 2032A(e)(1)” in subsection (a),

1 (B) by inserting “or section 2032B” after
2 “under section 2032A” each place it appears
3 therein,

4 (C) by striking “to section 2032A” and in-
5 serting “to sections 2032A and 2032B” in sub-
6 section (a), and

7 (D) by striking “**FARM, ETC., REAL**” in
8 the heading and inserting “**SPECIAL VALU-**
9 **ATION**”.

10 (5) Subparagraph (C) of section 1223(12) of
11 such Code (relating to holding period of property) is
12 amended by inserting “or section 2032B(b)(4)”.

13 (6) Subsection (f) of section 2013 of such Code
14 (relating to treatment of additional estate tax im-
15 posed) is amended—

16 (A) by inserting “or section 2032B(c)”
17 after “section 2032A(c)” each place it appears,

18 (B) by inserting “or section 2032B” after
19 “If section 2032A”,

20 (C) by striking “as if section 2032A” in
21 paragraph (2) and inserting “as if sections
22 2032A and 2032B”, and

23 (D) by inserting “or Section 2032B” after
24 “Section 2032A” in the caption thereof.

1 (7) Subsection (e) of section 2055 of such Code
2 (relating to disallowance of deduction for transfers
3 for public, charitable, and religious uses in certain
4 cases) is amended by adding at the end thereof the
5 following new paragraph:

6 “(5) No deduction shall be allowed under this
7 section for a transfer described under paragraph
8 (3)(B) of section 2032B(b).”

9 (8) Section 2624(b) of such Code (relating to
10 valuation in generation-skipping transfers) is amend-
11 ed by striking “2032 and 2032A” and inserting
12 “2032, 2032A, and 2032B”.

13 (9) Section 2663(1) of such Code (relating to
14 regulations for generation-skipping transfers) is
15 amended by striking “section 2032A(c)” and insert-
16 ing “sections 2032A(c) and 2032B(c)”.

17 (10) The table of sections for part III of sub-
18 chapter A of chapter 11 of such Code is amended by
19 inserting immediately after the item relating to sec-
20 tion 2032A the following:

 “Sec. 2032B. Special valuation for sensitive environmental
 areas.”.

21 (11) The table of sections for part III of sub-
22 chapter O of chapter 1 of such Code is amended by
23 striking “farm, etc., real” in the item relating to
24 section 1040 and inserting “special valuation”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to estates of decedents dying after
3 the date of the enactment of this Act.

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